

10

CAUSE NO.

09.9989

16 COPY

FILED
2009 AUG -7 PM 4:11
CLERK OF COURT

7 PM 4
GARY R. THOMAS
COURT CLERK
DALLAS CO., TEXAS
DEPUTY
Y, TEXAS

MANUELA REYES,

Plaintiff,

VS.

KROGER TEXAS, LP,

Defendant.

IN THE DISTRICT COURT

DALLAS COUNTY, TEXAS

160th JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW MANUELA REYES (hereinafter "Plaintiff"), complaining of KROGER TEXAS, LP (hereafter Defendant "Kroger Texas"), and for causes of action would show the Court as follows:

I. DISCOVERY CONTROL PLAN

Plaintiff requests that discovery be conducted pursuant to Rule 190.3, Discovery Control Plan Level 2 of the Texas Rules of Civil Procedure.

II. PARTIES

Plaintiff is an individual residing in Dallas County, Texas.

Defendant, **KROGER TEXAS, LP**, is a company duly licensed to do business in the State of Texas, which has in the past done and/or is currently doing business, engaging in business, and/or transacting business in the State of Texas generally and through its retail "Kroger" business location at 313 West Pioneer Parkway, Grand Prairie, Texas. Said Defendant may be served with process herein by and through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service

Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701. Upon information and belief, Defendant KROGER TEXAS, LP operates the retail "Kroger" business location at 313 West Pioneer Parkway, Grand Praire,.

III. JURISDICTION AND VENUE

This Court has jurisdiction over the subject matter of this case because: (1) The amount in controversy exceeds the minimum jurisdictional limits of this Court; (2) Plaintiff is a citizen of the State of Texas and Dallas County; (3) Defendant committed a tort in the State of Texas, and Dallas County, as alleged herein, Tex. Civ. Prac. & Rem. Code § 17.042(2); (4) The actions and omissions of Defendant which caused harm to Plaintiff related to real property under the control of Defendant situated at 313 West Pioneer Parkway, Grand Praire,; (5) Defendant at all relevant times purposefully availed itself of the privilege of conducting business activities within the State of Texas, thus invoking the benefits and protections of its laws, by operating a retail store location at 13201 N. RR 620, Austin, Texas 78759, visited by Plaintiff invitee. *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 319 (1945).

Venue is proper in Dallas County, Texas, because all or a substantial part of the acts or omissions to act giving rise to the claims herein asserted occurred in said county.

IV. FACTS

The incident made the basis of this lawsuit occurred on or about July 10, 2008 at the Kroger grocery store located at 313 West Pioneer Parkway, Grand Praire, in Dallas County, Texas. As the Plaintiff entered the store, suddenly and without warning she slid in a puddle of dirty liquid, which she believed to be water. As a result of her fall, Plaintiff sustained serious personal injuries.

V. CAUSES OF ACTION AGAINST DEFENDANT

Plaintiff was an invitee of Defendant and therefore said Defendant owed a duty to use ordinary care and have its premises inspected and maintained in a reasonably safe condition for use by business patrons and invitees.

Plaintiff would show that at the time and on the occasion complained of, Defendant was negligent, which negligence proximately caused her damages and injuries in the following particulars:

- a) In failing to maintain the premises in reasonably safe condition;
- b) In failing to warn Plaintiff of the dangerous condition of the premises;
- c) In failing to inspect the premises in order to discover the dangerous condition of the premises; and
- d) In failing to use ordinary care to reduce or eliminate an unreasonable risk of harm created by a premises condition which Defendant knew about, or in the exercise of ordinary care, should have known about.

Each of these acts and omissions, singularly or in combination with others, constituted negligence which proximately caused the occurrences made the basis of Plaintiff's action and Plaintiff's injuries and damages.

VI. DAMAGES

As a direct and proximate result of the incident, Plaintiff suffered severe and permanent bodily injury. Plaintiff would further show that as a proximate cause of the negligence of Defendant, she has incurred past reasonable and necessary medical expenses and will in reasonable probability continue to incur future medical expenses. Further, Plaintiff has sustained substantial pain, suffering and mental anguish in the past

for which she should be compensated and will in reasonable probability sustain pain, suffering and mental anguish in the future. Further, Plaintiff has sustained lost wages and/or a loss of wage earning capacity and will continue to incur similar damages in the future. As a further result of Plaintiff's serious and permanent injuries, she has sustained permanent impairment in the past and will sustain permanent impairment in the future. Finally, Plaintiff has sustained disfigurement in the past and in the future. For these injuries and damages, Plaintiff should be compensated in a sum far in excess of the minimum limits of this Court.

VII. EXEMPLARY DAMAGES

Defendant's acts or omissions described above, when viewed from the standpoint of Defendant at the time of the act or omission, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Plaintiff and others. Defendant had actual, subjective awareness of the risk involved in the above described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiff and others.

Based on the facts stated herein, Plaintiff requests exemplary damages be awarded to Plaintiff from Defendant.

VIII. RULE 194 REQUEST FOR DISCLOSURE

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant is requested to disclose, within fifty (50) days of service of this Petition upon KROGER TEXAS, L.P., the information or material described in Rule 194.2.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer herein, that after final trial hereon, Plaintiff recover of and

from Defendant her damages as mentioned above, costs of Court, prejudgment and post judgment interest, and for such other and further relief, to which she may show herself justly entitled.

DATED: August 6, 2009

Respectfully submitted,

STOVALL & ASSOCIATES, P.C.

BY: 

KIMBERLY A. STOVALL, ESQ.

State Bar No. 19337000

CHRISTOPHER J. PARIS, ESQ.

State Bar No. 24032930

6750 Hillcrest Plaza Drive, Suite 312

Dallas, Texas 75230

(972) 774-1276, telephone

(972) 774-1277, facsimile

ATTORNEYS FOR PLAINTIFF

FORM NO. 353-3 - CITATION
THE STATE OF TEXAS

To:
KROGER TEXAS LP
BY AND THROUGH ITS REGISTERED AGENT CORPORATION SERVICE COMPANY
DBA CSC-LAWYERS INCORPORATING SERVICE COMPANY
701 BRAZOS STREET SUITE 1050
AUSTIN TX 78701

GREETINGS:
You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE, a default judgment may be taken against you. Your answer should be addressed to the clerk of the 160th District Court at 600 Commerce Street, Dallas, Texas 75202.

Said Plaintiff being MANUELA REYES

Filed in said Court 7th day of August, 2009 against

KROGER TEXAS LP

For suit, said suit being numbered DC-09-09989, the nature of which demand is as follows:
Suit On MOTOR VEHICLE ACCIDENT etc. as shown on said petition, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.
WITNESS: GARY FITZSIMMONS, Clerk of the District Courts of Dallas, County Texas.
Given under my name and the Seal of said Court at office on this 7th day of August, 2009

ATTEST: GARY FITZSIMMONS
Clerk of the District Courts of Dallas, County

By  Rita Rodgers, Deputy



ATTY

CITATION

No.: DC-09-09989

MANUELA REYES

vs.

KROGER TEXAS LP

ISSUED

on this the 7th day of August, 2009

GARY FITZSIMMONS
Clerk District Courts,
Dallas County, Texas

By RITA RODGERS, Deputy

Attorney for Plaintiff
KIMBERLY A STOVALL
6750 HILLCREST PLAZA DRIVE
SUITE 312
DALLAS TX 75230
972/774-1276

OFFICER'S RETURN

Came to hand on the _____ day of _____, 20____, at _____ o'clock _____ M. Executed
at _____, within the County of _____ at _____ o'clock
_____ M. on the _____ day of _____, 20____, by delivering to the within
named _____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery.
The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation \$ _____ of _____ County, _____
For mileage \$ _____ By _____ Deputy
For Notary \$ _____

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20____,
to certify which witness my hand and seal of office.

Notary Public _____ County _____



CORPORATION SERVICE COMPANY

Notice of Service of Process

LDD / ALL
Transmittal Number: 6978914
Date Processed: 09/15/2009

Primary Contact: Ms. Carrie Cortolillo
The Kroger Co.
1014 Vine Street
Cincinnati, OH 45202-1100

Entity:	Kroger Texas L.P. Entity ID Number 2172000
Entity Served:	Kroger Texas LP
Title of Action:	Manuela Reyes vs. Kroger Texas, LP
Document(s) Type:	Citation/Petition
Nature of Action:	Personal Injury
Court:	Dallas County District Court, Texas
Case Number:	09-9989
Jurisdiction Served:	Texas
Date Served on CSC:	09/14/2009
Answer or Appearance Due:	by 10 a.m. of the Monday next following the expiration of twenty days after you were served
Originally Served On:	CSC
How Served:	Certified Mail
Plaintiff's Attorney:	Kimberly A. Stovall 972-774-1276

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
CSC is SAS70 Type II certified for its Litigation Management System.
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com